

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

MATTHEW BAKER, et al., §
Plaintiffs, §
v. § Cause No. 1:22-CV-00166-C
§
BRYAN COLLIER, et al., §
Defendants. §

ADVISORY

TO THE HONORABLE COURT:

NOW COMES, the Undersigned Plaintiffs in the above styled and numbered cause, and respectfully files this ADVISORY to bring to the Court's attention that the more appropriate venue for this suit may be the Western District of Texas, Austin Division. In support of such, Plaintiffs present the following:

This suit seeks universal air-conditioning within the Texas Department of Criminal Justice. Specifically, to maintain a heat index between 65°-85°F inside all TDCJ unit's housing and work areas at all times by installing climate control.

Initially this suit was filed in the Southern District of Texas, Houston Division, because TDCJ headquarters is located in Huntsville, Walker County. However the Houston Court believed a more convenient venue was the Abilene Court and subsequently transferred the suit to the Northern District.

Although Plaintiffs understand that the Court has broad discretion in deciding whether to order a transfer, Plaintiffs believe that the more appropriate venue may be the Western District of Texas, Austin Division, because that is where the majority of the Defendant's reside (To wit: members of the Texas Board of Criminal Justice) and where the actual events giving rise to the alleged civil rights violations occurred.

This is because it is the POLICY created by the Defendants in Austin that does not require that all TDCJ units maintain a heat index between 65°-85°F inside all TDCJ unit's housing and work areas. It is this policy that creates the cruel and unusual conditions that Plaintiffs raise in this suit.

Although Plaintiffs describe conditions or events in their Complaint that occurred on the Robertson Unit, those events are given as examples. The Houston Court is mistaken when it wrote in the Transfer Order that Plaintiffs "identify several instances when prison staff at the Robertson Unit have allegedly failed to comply with TDCJ's policies". The Houston Court was mistaken because the conditions described as examples on the Robertson Unit are NOT in violation as they are wholly in conformity with TDCJ policy which does not prohibit the housing and work areas in TDCJ to reach temperatures over 85°F.

For this reason no TDCJ Staff from the Robertson Unit are named as Defendants in this suit because they are powerless to change TDCJ policy to resolve the unconstitutional conditions of extreme temperatures. Thus the events giving rise to this suit are squarely in the jurisdiction of the Western District of Texas, Austin Division - where the policy is created.

Furthermore, for logistical reasons, it would likely be more convenient to the Defendants if this suit was litigated in the Austin Court because it is where the majority of Defendants physically reside/work. Robertson Unit has teleconference facilities that can allow the Plaintiffs to attend any hearing virtually if Austin were the venue. This also accords with sound security and judicial economy and efficiency.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully bring to this Courts attention that the majority of the defendants and the acts giving rise to the alleged civil rights violations occurred in Austin, Texas, and thus the more appropriate venue for this suit may be the Western District of Texas, Austin Division.

Plaintiffs pray for such other and further relief to which this Court deems appropriate.

10th November 2022

Respectfully Submitted,

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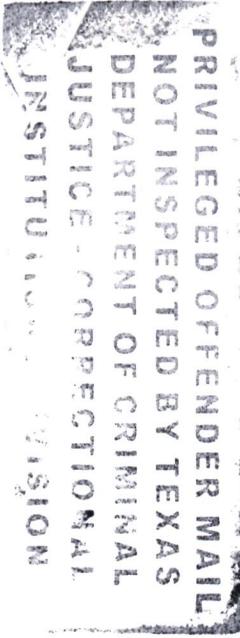
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